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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,034	01/12/2005	Jae-Kun Lee	1234-11	6623
66547 7590 01/05/2010 THE FARRELL LAW FIRM, LLP 290 Broadhollow Road Suite 210E Melville, NY 11747				
EXAMINER				
STETZ, RACHEL RUNNING				
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3732				
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01/05/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/521,034

Applicant(s)

LEE, JAE-KUN

Examiner

RACHEL R. STEITZ

Art Unit

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/CD)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 5, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmittou (US 6,012,462) in view of Kobayashi et al. (US 5,711,454) and Sigmund et al. (US 4,592,376).

Schmittou discloses a hair-dyeing device comprising a main body (6) having a power source, a dye inlet port, and a comb assembly (4) attached to the main body (see Figure 1; column 2, lines 15-25). The comb comprises a plurality of tines; each tine has at least one flow channel (see Figure 2). A pump (5) is used for supplying the dye contained in the dye container to the tines (see Figure 1). An intermediate plate is attached to the port formed in the main body (see Figure 1). Schmittou does not disclose the dye containers being a thin resin film with at least one hole formed at the outside of the dye container, the pump providing an outside negative pressure at the at least one mouth for discharging the hair dye, and the main body having a motor.

Kobayashi et al. teaches a dye-containing space (2) being defined in a thin resin film (1), the thin resin film is easily collapsible, and has one mouth that is adapted so the dye is discharged through the mouth (column 7, lines 10-20). The dye-containing

space further comprises at least one hole formed on the outside (column 4, lines 7-10). Sigmund et al. teaches a hair-dyeing device comprising an electric motor (50) source to power an outside negative pressure pump (16) (see Figure 9; column 6, lines 15-25). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the hair dyeing device of Schmittou with the dye containers as taught by Kobayashi et al. in order to create negative pressure within the bag to discharge the dye at any position of the container. It further would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the hair dyeing device of Schmittou with the motor operated pump providing an outside negative pressure as taught by Sigmund et al. in order to operate the pump automatically.

3. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schmittou (US 6,012,462) in view of Kobayashi et al (US 5,711,454) and Sigmund et al. (US 4,592,376) as applied to claim 3 above, and further in view of Cheung (US 5,755,241).

The combination of Schmittou, Kobayashi et al., and Sigmund et al. disclose the claimed invention except for the comb assembly being pivotally attached to the main body.

Cheung teaches a hair-dyeing device with a pivotal comb (16) mounted to the body (see Figure 2; column 3, lines 43-47). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of

Schmittou, Kobayashi et al., and Sigmund with the pivotal comb as taught by Cheung in order to position the comb at different angles relative to the body and the user's head.

4. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schmittou (US 6,012,462) in view of Kobayashi et al (US 5,711,454) and Sigmund et al. (US 4,592,376) as applied to claim 3 above, and further in view of Rudick (US 4,826,046).

The combination of Schmittou, Kobayashi et al., and Sigmund et al. disclose the claimed invention except for the pump being mounted in the main body as a multi channel pump.

Rudick teaches a multi channel pump that is used for post mixing (see Figure 1(a); column 1, lines 55-65). It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the pump of Schmittou, Kobayashi et al., and Sigmund with a multi channel pump as taught by Rudick in order to allow the hair dye to be post mixed.

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schmittou (US 6,012,462) in view of Kobayashi et al (US 5,711,454) and Sigmund et al. (US 4,592,376) as applied to claim 3 above, and further in view of Turner (US 4,792,250).

The combination of Schmittou, Kobayashi et al., and Sigmund et al. disclose the claimed invention except for a valve mounted in each of the flow channels.

Turner teaches a valve (208) mounted in each of the flow channels to control the amount of fluid dispensed through the valve (column 8, lines 35-50). It would have been

obvious to one having ordinary skill in the art at the time the invention was made to modify the device of Schmittou, Kobayashi et al, and Sigmund et al. with a valve mounted in each of the flow channels as taught by Turner in order to control the amount of liquid dispensed through the channels.

6. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schmittou (US 6,012,462) in view of Kobayashi et al (US 5,711,454) and Sigmund et al. (US 4,592,376) as applied to claim 3 above, and further in view of Kornides (US 5,297,882).

The combination of Schmittou, Kobayashi et al., and Sigmund et al. disclose the claimed invention except for a plurality of dispensers disposed between the pump and the comb for uniformly distributing the dye supplied by the pump, and wherein each of the dispensers has a plurality of rotors arranged on the same shaft.

Kornides teaches a plurality of dispensers wherein each of the dispensers has a plurality of rotors (26) arranged on the same shaft (22) (see Figure 5). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the device of Schmittou, Kobayashi et al., and Sigmund with a plurality of dispensers wherein each of the dispensers has a plurality of rotors arranged on the same shaft as taught by Kornides in order to allow for uniform distribution of the hair dye product.

Response to Arguments

Applicant's arguments filed October 23, 2009 have been fully considered but they are not persuasive.

7. In response to applicant's argument that Schmittou does not disclose the limitation of a dye containing space for preventing contact between hair dye remaining in the dye container and filling hair introduced into the dye container by discharging the hair dye, it is understood that Schmittou teaches an air pressure force used to release the hair dye, however, Kobayashi et al. was used to teach dye containers that create negative pressure within the bag to discharge dye; therefore, preventing contact between hair dye remaining in the dye container and filling air.
8. In response to applicant's argument that Sigmund teaches away from the use of a negative pressure pump; however, Sigmund was used merely as a teaching reference to show using a pump operated by a motor to operate the pump automatically.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RACHEL R. STEITZ whose telephone number is (571)272-1917. The examiner can normally be reached on Monday-Friday 7:00 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez can be reached on (571) 272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Rachel Running Steitz/
Examiner
Art Unit 3732

12/21/2009

/Cris L. Rodriguez/
Supervisory Patent Examiner, Art Unit 3732